

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

ANDREA PHILLIPS,)	
)	
Plaintiff,)	
)	
v.)	Case No. <u>CIV-14-935-C</u>
)	
HARTFORD LIFE AND ACCIDENT)	<i>(Removed from District Court</i>
INSURANCE COMPANY,)	<i>of Oklahoma County</i>
)	<i>Case No. CJ-2014-4541)</i>
Defendant.)	

NOTICE OF REMOVAL

Defendant Hartford Life and Accident Insurance Company (“Hartford”), pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, removes the above-captioned action pending in the District Court of Oklahoma County, Oklahoma, to the United States District Court for the Western District of Oklahoma. The grounds for removal are as follows:

1. Plaintiff commenced this action entitled *Andrea Phillips v. Hartford Life and Accident Insurance Company*, Case No. CJ-2014-4541 (the “Action”), by filing a Petition with the District Court of Oklahoma County, Oklahoma (the “Petition”), on August 12, 2014.

2. The Petition purports to state claims against Hartford for breach of contract and insurance bad faith, for which Plaintiffs seek (1) compensatory damages in an amount in excess of \$75,000, (2) punitive damages, (3) declaratory judgment, and (4) attorneys’ fees, costs, and interest.

3. The Petition in the Action is attached as Exhibit 1. The Summons to Hartford is attached as Exhibit 2. A copy of the Docket Sheet, Oklahoma County, Case

No. CJ-2014-4541, is attached as Exhibit 3. Hartford is unaware of the existence of any process, pleadings, or orders other than the documents included in Exhibits 1- 3. Moreover, there are no motions pending before the Oklahoma County District Court in this matter, nor are any hearings currently set.

4. As set forth more fully below, this case is properly removed to this Court under 28 U.S.C. §§ 1332, 1441 and 1446 because Hartford has satisfied the procedural requirements for removal and this Court has subject matter jurisdiction under 28 U.S.C. § 1332.

I. Hartford has satisfied the procedural requirements for removal.

5. Plaintiff served the Petition on the Insurance Commissioner of the State of Oklahoma. *See* Ex. 2. The Petition was mailed by the Insurance Commissioner to Hartford's service agent, The Corporation Company, on August 14, 2014. *See* Ex. 4. The Petition was received by Hartford's service agent on August 15, 2014. *See* Ex. 5.

6. Because this Notice of Removal is being filed within thirty days of service of the Petition on Hartford's service agent, it is timely under 28 U.S.C. § 1446(b).

7. Under 28 U.S.C. § 1446(a), the United States District Court for the Western District of Oklahoma is the appropriate court for filing this Notice of Removal from the District Court of Oklahoma County, Oklahoma, where the Action is pending. *See* 28 U.S.C. § 116(c).

8. Venue is proper pursuant to 28 U.S.C. §§ 1441(a) and 1391(b).

II. Removal is proper because this Court has subject matter jurisdiction under 28 U.S.C. §§ 1332.

9. This Court has original jurisdiction over this action under the diversity of citizenship provision contained in 28 U.S.C. § 1332(a) because this is a civil action (A) where the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and (B) between citizens of different states, *see* Ex. 1 Pet. ¶ 1-2. Thus, the Action may be removed to this Court by Hartford pursuant to 28 U.S.C. § 1441(a).

A. The amount in controversy requirement is satisfied.

10. It is apparent from the face of the Petition that the Plaintiff seeks recovery of an amount in excess of \$75,000, exclusive of interest and costs. *See* Ex. 1, Pet. Prayer, ¶ 1 (“Wherefore, premises considered, Andrea Phillips prays for Judgment against Hartford Life and Accident Insurance Company as follows: Breach of contract damages of \$100,000.”). In addition, Plaintiffs seek recovery for purported punitive damages, interest, costs, and attorneys’ fees. *See* Ex. 1, Pet. Prayer, ¶¶ 2-5.

11. The assertions regarding damages in the Petition are sufficient to demonstrate that the amount in controversy requirement for diversity jurisdiction has been met. 28 U.S.C. § 1446(c)(2).

B. Complete diversity of citizenship exists between Plaintiffs and Hartford.

12. Plaintiff is a citizen of the state of Oklahoma. *See* Ex. 1, Pet. ¶ 1.

13. Plaintiff acknowledges that Hartford is a foreign insurance corporation. *See* Ex. 1, Pet. ¶ 2. In fact, Hartford is a corporation incorporated in Connecticut with its principal place of business in Connecticut. *See* Ex. 1, Pet. ¶ 2; *see also* Exhibit 6,

Declaration of Jodi Dishman. For purposes of determining diversity jurisdiction, Hartford is therefore a citizen of Connecticut.

14. Because the Plaintiff is completely diverse from Hartford, diversity exists in this Action.

15. Hartford reserves the right to amend or supplement this Notice of Removal.

16. Hartford reserves all defenses, including, without limitation, those set forth in Fed. R. Civ. P. 12(b).

17. Written notice of the filing of this Notice of Removal will be given to the Plaintiff and the state court promptly after the filing of the Notice of Removal pursuant to 28 U.S.C. § 1446(d).

WHEREFORE, Hartford removes this Action to this Court under 28 U.S.C. §§ 1332, 1441 and 1446, and invokes this Court's jurisdiction.

Respectfully submitted this 3rd day of September, 2014.

Respectfully submitted,

/s/Jodi W. Dishman

Jodi W. Dishman, OBA # 20677
McAfee & Taft A Professional Corporation
211 North Robinson, 10th Floor
Oklahoma City, OK 73102
Telephone: (405) 235-9621
Facsimile: (405) 235-0439
E-mail: jodi.dishman@mcafeetaft.com

ATTORNEY FOR DEFENDANT
HARTFORD LIFE AND ACCIDENT
INSURANCE COMPANY

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of September, 2014, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following registrants:

Robert C. Brown, Jr.

ATTORNEY FOR PLAINTIFF

Additionally, I hereby certify that a true and correct copy of the above and foregoing was sent by U.S. Postal Service this 3rd day of September, 2014, to:

Robert C. Brown, Jr.
TOMMY KLEPPER & ASSOCIATES, PLLC
702 Wall Street, Suite 100
Post Office Box 721980
Norman, OK 73070

ATTORNEY FOR PLAINTIFF

/s/Jodi W. Dishman

Jodi W. Dishman